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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,101	08/20/2001	Claude Lambert	159.1.334 A	7127

7590 08/28/2002

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EXAMINER

CARTER, MONICA SMITH

ART UNIT

PAPER NUMBER

3722

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

T.B.

# Office Action Summary

Application No.

09/933,101

Applicant(s)

LAMBERT ET AL.

Examiner

Monica S. Carter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Priority*

- ✓ 1. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)).

### *Claim Objections*

- ✓ 2. Claim 17 is objected to because of the following informalities:

In claim 12, line 1, "the" should be entered before "at".

✓ In claim 17, lines 2 and 4, "3)" and "4)" should be deleted.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

✓ In claim 12, applicant claims "at least one of said regions is different than the encoded pattern for another of said regions". In claim 8 applicant sets for that the encoded

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pattern is present in "at least one of" and not both. Therefore, there is lack of support in claim 8, for the limitation of claim 12.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Royer (6,308,991) in view of Ehrhart et al. (6,419,157).

Royer discloses a document (20) comprising a substrate; an encoded game data portion (22) on the substrate; a non-game data region (area other than game data portion on surface 24) and at least one scratch-off layer (26) over the encoded game data portion.

Royer discloses the claimed invention except for the particular layers of the encoded game data portion as claimed.

Ehrhart et al. disclose methods for processing security documents comprising a game ticket (202-3-6) having an icon layer (226') and outer layer (238') wherein the icon layer and outer layer have predetermined reflectance patterns under exposure to a specific narrow band source of illumination (see col. 12, lines 11-16). The outer layer has a first reflectance measurement when illuminated in a specific narrow band of light and all

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colors of indicia icon layer 226' have a second reflectance measurement when illuminated in the same narrow band (see col. 12, lines 55-59). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Royer's invention by providing the encoded game data portion with two different layers having two different reflectance values, as taught by Ehrhart, to enhance the security of the document deterring the possibility of forgery.

Regarding claims 2, 5, 7, 18, 20, 22 and 27, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a desired value for the reflectance (e.g. the value of the second reflectance less than the value of the first reflectance), since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 3, Royer, as modified by Ehrhart et al., disclose that various colors and shades of colors are seen in white light when illuminated by a narrow band of illumination source ( red light - see col. 12, lines 17-20 and 59-63).

Regarding claims 4, 6, 19 and 21, it would have been obvious to one having ordinary skill in the art at the time of the invention to provide any desired range for the reflectance value, since it has been held that where the general conditions of a claim

are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Regarding claims 8 and 9, Royer, as modified by Ehrhart et al., disclose the encoded pattern of symbols being present in the game data region and the non-game data region (as seen in figures 2-4 of Royer).

Regarding claim 10, Royer, as modified by Ehrhart et al., disclose the encoded pattern of symbols appearing in less than the entire game data region or non-game data region (as seen in figure 3).

Regarding claim 11, it would have been obvious to locate the encoded pattern of symbols in any desired arrangement, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Regarding claims 14-17, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a second encoded pattern, a second layer with non-game data, at least one additional layer printed over the at least one scratch-off layer, since it has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 28, the document is a lottery ticket (see Royer col. 2, lines 13-15).

Regarding claim 29-39, the method of detecting tampering of a document and producing a tamper resistant document is inherently disclosed in the above rejections.

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**Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Donahue (4,880,964), Borowski, Jr. et al. (5,193,854), Danelski (5,282,917), Chang et al. (5,484,169), Natsudaira (5,740,514) and Garczynski et al. (6,357,658).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica S. Carter whose telephone number is (703) 305-0305. The examiner can normally be reached on Monday-Thursday (8:00 AM - 5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea L. Wellington can be reached on (703) 308-2159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Monica S. Carter  
August 22, 2002